

Kristi Cahoon Kelly

From: Pumphrey, Brian E. [bpumphrey@mcguirewoods.com]
Sent: Tuesday, September 25, 2012 12:34 PM
To: Leonard Bennett; Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Len:

Please go ahead and file whatever motions you feel you need to file, and we will do the same.

Thanks,
Brian

Brian E. Pumphrey
Partner
McGuireWoods LLP
One James Center
901 East Cary Street
Richmond, Virginia 23219
804.775.7745 (Direct Line)
804.698.2018 (Direct Fax)
bpumphrey@mcguirewoods.com

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From: Leonard Bennett [mailto:lenbennett@clalegal.com]
Sent: Tuesday, September 25, 2012 12:31 PM
To: Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

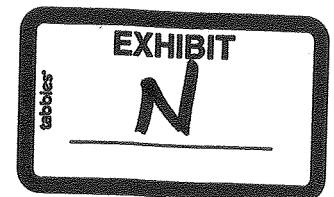
The Motion would require the explanation that it is because of your delay in providing deps. And the FPT cannot be moved.

Further - No. We will not combine the deps in the two cases. And I do not intend to take Evans or the 30b6 in Orebaugh on Oct 10.

Len

On Sep 25, 2012, at 12:17 PM, Ramana, Anand V. wrote:

Len:



We will agree that you can represent to the Court that the Bank has no objection to the Rocabrunas' consent motion for an additional three weeks of discovery so long as the depositions of the Rocabrunas and Ms. Bechtold proceed as noticed/agreed on the 4th, that your motion asks that the final pretrial conference be moved until after discovery closes and that your motion is not based on or allude to any alleged misconduct or improper delays by the Bank. If this is

In addition, it is my understanding that my colleagues wanted to start scheduling the depositions in the Orebaugh matter that you have requested. I further understand that, although you have not asked for a 30(b)(6) in Orebaugh, you will want one. My colleagues know you have asked for a similar 30(b)(1) in that case. We will agree that you can depose Ms. Evans on the 10th for purposes of both Rocabruna and Orebaugh. Let us know how you want to proceed.

Thanks,
Anand

Anand V. Ramana
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2001 K Street, NW
Washington, DC 20006
202.857.1734 (Direct Line)
202.828.2973 (Direct Facsimile)
aramana@mcguirewoods.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

From: Leonard Bennett [<mailto:lenbennett@clalegal.com>]
Sent: Monday, September 24, 2012 11:10 PM
To: Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Counsel:

Ms Evans was never in charge of India.

And we will agree to the Oct 10 date provided you stipulate and the Court agrees to an additional three weeks for Plaintiffs' discovery. Please confirm your agreement. Otherwise, we will notice the issue up for hearing. As it is now, your refusal to produce the 30b6 witness when noticed has greatly disadvantaged us.

Len

Sent from my iPhone

On Sep 24, 2012, at 9:59 PM, "Ramana, Anand V." <ARamana@mcguirewoods.com> wrote:

Len,

We are trying to work with you on the scheduling of depositions, based on dates previously provided to us by your co-counsel and to which we have now agreed. We relied upon the dates provided to us, which was particularly critical because our witness has been on business travel for the last few weeks. Ms. Evans, our 30(b)(6) and 30(b)(1) representative, will be available on October 10, in her representative and individual capacities. We have offered to bring her to Virginia as an accommodation. If you believe you need additional time past October 18 for follow-up depositions because those depositions cannot be held until the 10th, we will discuss that issue with you. We have also agreed to provide Mr. Bouchane on October 2. Finally, we have offered to make available the person who took over responsibility for the

As you know, your co-counsel proposed, and we accepted, October 4 as the date for both your clients and Ms. Bechtold. We have noticed their depositions for that date.

We are endeavoring to meet our discovery obligations, and trying to work with you in good faith. Obviously, you must take whatever actions you believe appropriate, but we are confident the Court will agree that we are being reasonable here.

Regards,
Anand

From: Leonard Bennett [mailto:lenbennett@clalegal.com]
Sent: Monday, September 24, 2012 3:54 PM
To: Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Counsel:

I have confirmed that our clients will be available for their depositions the week of October 8. As you have confirmed October 4, 2012 as a date on which YOU are available, we are noticing the 30b1 notice for that date.

I also repeat that Ms. Evans is not THE management employee who is in charge of directly supervising the Indian ACDV operators. She testified to this fact in her 2010 deposition (which would have occurred during the period you suggest below). We are not asking for someone who has at some time in their career exercised some minimal amount of supervisory authority over a person who worked in India.

Len

On Sep 24, 2012, at 3:30 PM, Ramana, Anand V. wrote:

Len,
Ms. Evans is back, and we've discussed deposition schedules with her. She is available on October 10, which is one of the four dates that were proposed last week. We will fly her to Northern Virginia and hold the deposition at either our DC or McLean, VA office. She will be deposed as the Bank's 30(b)(6) representative and in her individual capacity.
In addition, Ms. Evans had supervisory responsibility for the Indian ACDVs until some point in 2010, so she is knowledgeable about ACDV operations. Indeed, she has been to India in that capacity. We believe Ms. Evans can fulfill the requirements of the 30(b)(1) witness you requested. She can also answer questions in that role on October 10. If, after Ms. Evans' deposition, you believe you also need to depose the person who has been in that capacity with the Bank, we will work with you. That person is not available because of business travel to India, but we understand that she returns in mid-October. Recognizing that this cuts close to your discovery deadline, we are willing to permit her to be deposed past the discovery cutoff if necessary.
Please let me know how you wish to proceed on this. Thanks.
Finally, this will confirm that we will depose the Rocabrunas and Michelle Bechtold on October 4, 2012. We will send out notices and a subpoena later today.

PS - FYI, I did not receive any 30(b)(1) deposition notice on Friday. Not a big deal - we are working with you on dates - just thought you should know in the event that he attempted to do so.

Regards,

Anand V. Ramana
McGuireWoods LLP
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202.857.1734 (Direct Line)
202.828.2973 (Direct Facsimile)
aramana@mcguirewoods.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

From: Leonard Bennett [<mailto:lenbennett@clalegal.com>]
Sent: Friday, September 21, 2012 4:08 PM
To: Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand -

We still need a date for the 30b1 of the "Management employee most responsible for the supervision of the Bank of America ACDV operators."

This is not a 30b6 topic and the person so responsible is not Sandra Evans.

Andrew will provide you today a service copy of the deposition notice for such person set for two weeks out, but of course will try to accommodate your schedule.

Len

On Sep 21, 2012, at 3:07 PM, Ramana, Anand V. wrote:

Andrew,

Thanks for the notice. I'll take a look.

We can confirm October 2 for Bouchane. Please get back to me ASAP on Ms. Bechtold because we need to give 14 days advance notice, unless she is willing to waive that. If we don't hear back by Monday at noon, we'll notice her for October 8.

Thanks,

Anand V. Ramana
McGuireWoods LLP
2001 K Street, NW
Washington, DC 20006

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

From: Andrew Guzzo [<mailto:aguzzo@siplfirm.com>]
Sent: Friday, September 21, 2012 2:22 PM
To: Ramana, Anand V.; Kristi Cahoon Kelly; 'Leonard Bennett'
Cc: Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand,

Attached is the 30(b)(6) deposition notice you requested. Please let us know if this changes your position on any of your objections. Additionally, we are still waiting to hear from Ms. Bechtold, but October 2 for Bouchane is fine.

Andrew J. Guzzo, Esq.
Surovell Isaacs Petersen & Levy PLC
4010 University Drive, Second Floor
Fairfax, Virginia 22030
Direct: 703.277.9766
Fax: 703.591.9285

Please do not read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential information intended only for the addressee. If you have received this communication in error, please call me at 703-251-5400 or e-mail me immediately, and destroy all copies of the communications. Thank you.

From: Ramana, Anand V. [<mailto:ARamana@mcguirewoods.com>]
Sent: Thursday, September 20, 2012 2:57 PM
To: Kristi Cahoon Kelly; 'Leonard Bennett'
Cc: Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Kristi,

Thanks for the email. I'll respond to each of your points in turn.

(1) We haven't had a chance to amend our 26(a)(1) disclosures, but we've told you we would and will identify Evans in Ms. Cleversy's stead. It does not appear to be worthwhile to notice someone who will not be testifying. We will move for a protective order if we need to, but this should not be an issue the Court needs to address.

(2) No one knows who Urshay Hill is, so of course we don't represent her. Please copy us on any subpoena you issue. As for "Sierra" and "Jennifer," I'm sure you understand that without their last names a global BOA search for them would not be worthwhile. If you have some other identifying characteristic that can assist our search (like whatever contact information you will use to serve subpoenas on them) please let us know and we can try to cross-reference that data to the first names.

(3) You know that I did not say that Bouchane was available on those dates. I said I would ask him about his availability those dates that we mutually agreed to, which I have, and he has said that he is available on Oct. 2. If you are unable to do October 2 now, I can ask him about October 3. Just let me know.

(4) As we have repeatedly told you, Ms. Evans is not reachable right now so we cannot agree to October 1. I did not say that she was available, but rather that we would ask her, when she returns to the office, of her availability for 1, 2, 3, and 10. She's out all week, so she has not yet returned to the office. Once she does, we will see when schedules permit and get back to you as soon as possible.

Discovery opened in July. Without consulting with us on schedules, you noticed the 30(b)(6) deposition about five weeks later for a time that was not convenient for anyone, admittedly including yourselves.

The fact is that we cannot commit Ms. Evans to a date until we know her schedule. She returns to the office on Monday.

(5) Regarding our objections, I sent an email yesterday that stated that the *Berrios* authority you provided appeared to support our position on objections. I asked you to send along the topics from that case so I could make sure. Can you please send those along or otherwise explain why you think Judge Davis' rulings sustaining the same objections we interpose in this case support your position?

(6) As for the Rocabrunas, when we spoke, we agreed that you would look into the 24th and 26th, and I told you that if we did not hear back I would notice them for the 26th. Indeed, we've been discussing Sept. 24, 25, and 26 for weeks. You did not get back to me, so I noticed them for the 26th. It is not until now that we are told that they are not available for another 1-2 weeks. That said, in the interest of cooperation, we will agree to take their depositions on October 4. I will send amended notices of deposition for October 4 within the next 24 hours.

(7) Thank you for accepting service of subpoenas for those individuals. Can you please see if Michelle Bechtold is available on either October 4 or 8? Please let me know by 2pm tomorrow (so we can get the subpoena out 14 days in advance).

Thanks.

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From: Kristi Cahoon Kelly [<mailto:kkelly@siplfirm.com>]

Sent: Thursday, September 20, 2012 11:14 AM

To: Ramana, Anand V.; 'Leonard Bennett'

Cc: Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias

Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand,

We spoke on Monday.

In reviewing my notes, you indicated that you would withdraw Janet Cleavenger from your 26a1s as she no longer has knowledge. I have not received this updated 26a1s, so we will be sending a notice for her deposition today. Please confirm that October 3rd or 4th are an agreeable date. If you do not provide an alternative date and time by 3pm today, I will notice it at my preferred date and time today.

Regarding Urshay Hill. You indicated you have no record of her. Since you cannot locate her and your client has no idea who she is, I will assume you do not represent her so I can contact her directly. As I indicated in our call, I am surprised since her notes should be in your client's call notes.

Did you locate Sierra or Jennifer? If not, I will assume you do not represent them and will attempt to contact them directly. If you did, please provide me last known addresses.

You indicated Mr. Buchane was available for a deposition on September 26, October 2, or 3. I will be sending a notice of his deposition today, for October 3rd. I understand he is in Buffalo and will take this telephonically.

Regarding Ms. Evans. You indicated that she would be your 30b6 and is also the 30b1 we requested who had the most knowledge of the supervision of the Indian ACDV facility. We also want to depose her as a 30b1 witness based on her affidavit. We will send the notice for October 1st since you indicated that was a good date for you at our meeting. If you would like to pick the location, please let me know by 3pm today as I will be sending out these notices today.

I understand you have objections to every topic except for one of the 30b6 notice. I went over some of your objections regarding the willfulness, but you indicated you would get back to me by the end of the day about what objections you would withdraw after reviewing the *Berrios* transcript. You did not withdraw any. If you do not intend to withdraw any objections, that is fine but we will be filing a motion

to compel to be heard on September 28th. Please confirm by close of business today, what if any objections you intend to withdraw.

My clients are not available on September 26th. In our call, I indicated I would confirm their availability. I was unable to. Since the 26th does not work, I would propose the 4th, 5th or anytime the week of October 8th.

In our call you also asked whether I would accept service for Julie Rocabrana, Michael Rocabrana, Michelle Bechtold and Kelly Hutchinson. I will accept service for these individuals, but I would need to confirm the dates you would like to depose them on. They work and would require 2 weeks notice.

Thanks,

Kristi Cahoon Kelly
Surovell Isaacs Petersen & Levy PLC
4010 University Drive, 2nd Floor
Fairfax, VA 22030

Tel: (703) 277-9774

Fax: (703) 591-9285

kkelly@sipfirm.com

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From: Ramana, Anand V. [<mailto:ARamana@mcguirewoods.com>]

Sent: Wednesday, September 19, 2012 9:29 PM

To: 'Leonard Bennett'

Cc: Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias

Subject: RE: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Len,

Thanks for your email. The October dates we reference below are the dates Kristi and I mutually agreed that I would look into when she and I spoke last Friday. As we stated below and last Friday, our 30(b)(6) is not available to confirm dates until Monday because she is out of the office. Again, the 10th is the best bet, but we will see if schedules accommodate either the 1st, 2nd, or 3rd when she returns. Also, my understanding from Friday's discussion is that you preferred to depose the 30(b)(6) in person, and we are looking into bringing her from California to Virginia instead of North Carolina to minimize the burden on you. That said, we are always willing to work things around any prejudice opposing counsel encounters. Please let us know what prejudice you will be suffering as a result of taking her deposition on the 10th (keeping in mind discovery closes on Oct. 18th) and we will do our best to alleviate it. But she is not available on September 26, which is incidentally when your clients have been noticed for deposition, so that is not possible.

Unfortunately, I'm not sure what you are referring to when you say that you are trying to convince us of the depositions. Kristi and I hashed out a pretty good plan on Friday to schedule and take depositions and we are just confirming the schedules we discussed in the emails below. If you are more specific I can try to address your concerns.

Thanks,

Anand

From: Leonard Bennett [<mailto:lenbennett@clalegal.com>]

Sent: Wednesday, September 19, 2012 4:14 PM

To: Ramana, Anand V.

Cc: Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias

Subject: Re: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Counsel -

We will not wait until October for a deposition we noticed over two weeks ago. We will take the deposition by phone. Which day next week?

We have also tried to convince you on the depositions in the meet and confer process. Without success.

We will file our Motion.

Sent from my iPhone

On Sep 19, 2012, at 3:59 PM, "Ramana, Anand V." <ARamana@mcguirewoods.com> wrote:

Kristi,

Thanks for your email. I'll answer each of your questions in turn:

1. The Bank is not aware of any current or former employee with the name of Urshay Hill, so we have no information to provide you. If you can provide us with the last names of the other two people as we discussed last week, we can follow up.
2. We reviewed Barrios transcript. Although it is a bit difficult to follow because we do not have the actual topics and objections before us, we note that all of the objections that we interpose in Rocabruna were sustained by Judge Davis in Berrios. Indeed, Judge Davis sustained all of the disputed objections except two or three, none of which seem to apply to our case. If you believe we are missing something, please let me know and we will revisit this issue. I will also note that, unlike in Berrios, we have told you that we are going to put up a BOA corporate representative for any topics that reasonably relate to the issues in this case, even if we partially objected to the scope of the topics.
3. Ms. Evans is out of town this week, and we will let you know the date for her deposition when she returns next week. We will see if 1, 2, 3, or 10 works, but I would imagine the 10th is the best bet. We will recommend to the Bank that Ms. Evans come to Virginia for her deposition, and will confirm with her when she returns to the office on Monday. As for Bouchane, we are confirming his availability, but it looks like October 2. He's in Buffalo. Please let me know how you want to depose him and we'll do our best to work with you.

Thanks,

Anand V. Ramana
McGuireWoods LLP
2001 K Street, NW
Washington, DC 20006
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aramana@mcguirewoods.com

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From: Kristi Cahoon Kelly [<mailto:kkelly@siplfirm.com>]
Sent: Wednesday, September 19, 2012 10:15 AM
To: Ramana, Anand V.; Leonard Bennett; Susan Rotkis
Cc: Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand,
You have the wrong email addresses for my co-counsel.
I wanted to follow up on our meet and confer:
Did you ever figure out about Urshay Hill, Sierra or Jennifer? If they no longer work for BofA, can you give us their last know addresses?

Did you review Berrios and decide which objections you can withdraw.

I will let you know the dates for Evans and Buchane by close of business. Did you decide if you will produce Evans in NoVa?

Thanks,
Kristi Cahoon Kelly
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From: Sharp, Alison Y. [<mailto:ayates@mcguirewoods.com>] **On Behalf Of** Ramana, Anand V.

Sent: Tuesday, September 18, 2012 4:57 PM

To: 'lenbennett@cox.net'; 'srotkin@clalegal.com'; Kristi Cahoon Kelly

Cc: Pumphrey, Brian E.

Subject: Adelina C. Rocabrana, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Attached please find a copy of Bank of America, N.A.'s Notice of Deposition of Plaintiff Adelina C. Rocabrana and Bank of America, N.A.'s Notice of Deposition of Plaintiff Miguel A. Rocabrana in the above-referenced matter.
Thanks,

Anand V. Ramana
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